



4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-MB-2016-N014; FF06M00000-XXX-FRMB48720660090]

Availability of Draft Environmental Impact Statement for Eagle Take Permits for the Chokecherry and Sierra Madre Phase I Wind Energy Project

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments; announcement of public meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), have prepared a draft Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969, as amended (NEPA), in response to an application from Power Company of Wyoming (PCW) for eagle take permits (ETPs) pursuant to the Bald and Golden Eagle Protection Act (BGEPA) and its implementing regulations. PCW has applied for standard and programmatic ETPs for the Chokecherry and Sierra Madre (CCSM) Phase I Wind Energy Project in Carbon County, Wyoming. We announce a public comment period on the draft EIS. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

DATES: *Submission of comments:* This notice initiates the public comment period. To ensure consideration, we must receive your electronic or written comments by June 27, 2016.

Public meetings: We will host public meetings on June 6 and June 7, 2016, where you may discuss issues with Service staff and submit written comments. The meeting on June 6, 2016, will be held in Saratoga, Wyoming, between 4:30 and 6:30 p.m. The meeting on June 7, 2016, will be held in Rawlins, Wyoming, between 4:30 and 6:30 p.m. Additional meeting details will be announced through the Service's Web site at <http://www.fws.gov/mountain-prairie/wind/ChokecherrySierraMadre/index.html>, as well as via press releases, local newspapers, radio announcements, and other media, at least 10 days prior to the event.

If you require reasonable accommodations to attend the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least one week prior to the meeting.

ADDRESSES: *Submission of comments:* You may submit comments in writing by one of the following methods. At the top of your letter or in the subject line of your message, please indicate that the comments are for "Draft EIS for Phase I Chokecherry–Sierra Madre Wind Energy Project Comments."

- *Email:* Comments should be sent to: CCSM_EIS@fws.gov.
- *U.S. Mail:* Written comments should be mailed to Chokecherry–Sierra Madre EIS, U.S. Fish and Wildlife Service Mountain-Prairie Region, Attention: Louise Galiher, P.O. Box 25486 DFC, Denver, CO 80225.
- *Hand-Delivery/Courier:* Chokecherry–Sierra Madre EIS, U.S. Fish and Wildlife Service Mountain-Prairie Region, Attention: Louise Galiher, 134 Union Blvd., Lakewood, CO 80228.

For information on how to view comments on the EIS from the Environmental Protection Agency (EPA), or for information on EPA's role in the EIS process, see **EPA's Role in the EIS Process** under **SUPPLEMENTARY INFORMATION**.

Public meetings: The meeting on June 6, 2016, will be held at the Platte Valley Community Center, 210 West Elm Street, Saratoga, Wyoming. The meeting on June 7, 2016, will be held at the Jeffrey Center, 315 West Pine Street, Rawlins, Wyoming.

FOR FURTHER INFORMATION CONTACT: Louise Galiher, 303-236-8677 (phone); louise_galiher@fws.gov (email); or Clint Riley, 303-236-5231 (phone); clint_riley@fws.gov (email). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the draft EIS, as well as the permit application and the supporting Eagle Conservation Plan (ECP), are available for review at the Carbon County Library System at 215 West Buffalo Street, Rawlins, Wyoming; the Saratoga Public Library at 503 West Elm Street, Saratoga, Wyoming; USFWS Wyoming Ecological Services Office at 5353 Yellowstone Rd, Suite 308A, Cheyenne, Wyoming (contact Nathan Darnall to coordinate access at nathan_darnall@fws.gov or 307-772-2374 ext 246); and USFWS Region 6 Office at 134 South Union Boulevard, Lakewood, Colorado (contact Louise Galiher to coordinate access at louise_galiher@fws.gov or 303-236-

8677). Individuals wishing to obtain copies of the draft EIS, permit application, and ECP should contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**) or letter (see **ADDRESSES**). These documents are also available on the Service's Web site at:

<http://www.fws.gov/mountain-prairie/wind/ChokecherrySierraMadre/index.html>.

Public Coordination

The notice of intent to prepare an EIS for this project was published in the **Federal Register** on December 4, 2013 (78 FR 72926). Two public scoping meetings for the USFWS EIS were held on December 16 and 17, 2013, in conjunction with the Bureau of Land Management's (BLM's) scoping meetings for an Environmental Assessment (EA) of the Phase I CCSM Project.

In addition to this notice of availability of the draft EIS that the Service is publishing, EPA is publishing a notice announcing the draft EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). The publication of EPA's notice is the official start of the minimum requirement for a 45-day public comment period for an EIS (see **EPA's Role in the EIS Process**).

Background Information

A. Migratory Birds and Eagle Protections. Raptors and most other birds in the United States are protected by the Migratory Bird Treaty Act (16 U.S.C. 703–711). The President's Executive Order 13186 directs agencies to consider migratory birds in environmental planning by avoiding or minimizing to the extent practicable adverse impacts on migratory bird resources when conducting agency actions, and by ensuring

environmental analyses of Federal actions as required by NEPA or other established environmental review processes.

Bald eagles and golden eagles are provided further protection under BGEPA, which prohibits anyone, without a permit issued by the Secretary of the Interior, from “taking” eagles, including their parts, nests, or eggs. An ETP authorizes the take of live eagles and their eggs where the take is associated with, but not the purpose of, a human activity or project that is otherwise a lawful activity. Regulations governing permits for bald and golden eagles can be found in the Code of Federal Regulations at 50 CFR 22.26.

ETPs authorize the take of eagles where the take is compatible with the preservation of eagles; where it is necessary to protect an interest in a particular locality; where it is associated with, but not the purpose of, an otherwise lawful activity; and where take is unavoidable even though advanced conservation practices are being implemented. The Service will issue permits for such take only after an applicant has committed to undertake all practicable measures to avoid and minimize such take and mitigate anticipated take to the maximum extent achievable to be compatible with the preservation of eagles. Standard ETPs authorize eagle take in an identifiable timeframe and location. Programmatic ETPs authorize eagle take that is recurring and not within a specific, identifiable timeframe and/or location. Programmatic ETPs may be issued for a period of up to 5 years.

B. Power Company of Wyoming Application. As proposed by PCW, the Phase I CCSM Project will consist of approximately 500 wind turbines, a haul road, a quarry to supply materials for road construction, access roads, a rail distribution facility,

underground and overhead electrical and communication lines, laydown areas, operation and maintenance facilities, and other supporting infrastructure needed for Phase I to become fully operational. PCW has applied for a standard ETP for disturbance related to construction of CCSM Phase I wind turbines and infrastructure components, and a programmatic ETP for operation of the CCSM Phase I Project.

The applicant has prepared an ECP identifying measures it intends to undertake to avoid, minimize, and compensate for potential impacts to bald and golden eagles. To help meet requirements of the Migratory Bird Treaty Act, the applicant has also prepared an avian protection plan containing measures the applicant proposes to implement to avoid or minimize impacts of the Project on other migratory birds. The Service has considered the information presented in the ECP and avian protection plans in our analysis of environmental impacts in the draft EIS.

C. BLM's NEPA Review. The CCSM Phase I Project would be situated in an area of alternating sections of private, State, and Federal lands administered by BLM. In 2012, BLM completed a final EIS (FEIS) to evaluate whether the Project area would be acceptable for development of a wind facility in a manner compatible with applicable Federal laws. On October 9, 2012, BLM published a Record of Decision (ROD) determining that the portions of the area for which PCW seeks right-of-way grants “are suitable for wind energy development and associated facilities.” As explained in the ROD, BLM’s decision does not authorize development of the wind energy project; rather, it allows BLM to accept and evaluate future right-of-way applications subject to the requirements of all future wind energy development described therein (ROD at 6-1).

PCW has since submitted to BLM site-specific plans of development from which BLM is developing site-specific tiered EAs. In 2014, BLM published a final EA 1, which analyzes major components of project infrastructure, including the haul road, rail facility, and rock quarry. EA 2 is currently under development by BLM, and analyzes the wind turbines and pads, access roads, laydown areas, electrical and communication lines, and a construction camp.

The Service has incorporated by reference information from the BLM FEIS, ROD, EA1, and EA2 into our environmental analysis in the draft EIS in order to avoid redundancy and unnecessary paperwork. Council for Environmental Quality (CEQ) regulations authorize incorporation by reference (40 CFR 1502.21, CEQ 40 Most Asked Questions #30; see also 43 CFR 46.135).

Alternatives

In the draft EIS, the Service identified and analyzed the Proposed Action Alternative, the Proposed Action with Different Mitigation, an alternative to Issue ETPs for Phase I of Sierra Madre Wind Development Area Only, and the No Action Alternative.

Alternative 1: Proposed Action. Alternative 1 is for the Service to issue ETPs for the construction of the Phase I wind turbines and infrastructure components and for the operation of the Phase I CCSM Project, based on the ETP applications submitted by PCW. The Proposed Action includes avoidance and minimization measures, best management practices, and compensatory mitigation described in detail in the draft EIS and in PCW's application and ECP. PCW has proposed to retrofit high-risk power poles as compensatory mitigation, thereby reducing eagle mortality from electrocution.

Alternative 2: Proposed Action with Different Mitigation. Under Alternative 2, the Service would issue ETPs for the construction and operation of the Phase I CCSM Project as under Alternative 1, but would require PCW to implement a different form of compensatory mitigation than proposed in its ETP applications. We are considering mitigation of older wind facilities, lead abatement, carcass removal, carcass avoidance, wind conservation easements, habitat enhancement (focusing on prey habitat), and rehabilitation of injured eagles as possible alternative forms of compensatory mitigation.

Alternative 3: Issue ETPs for Phase I of Sierra Madre Wind Development Area Only. The Service received numerous comments during the scoping process requesting that we examine a different development scenario from that proposed by PCW. However, to issue an ETP, we must analyze a specific project and ECP to determine if it meets the requirements for an ETP. Alternative 3 represents an example of a different development scenario PCW could present in a new application if the Service were to determine that the Phase I CCSM Project would meet all the criteria for issuing an ETP, but not at the scale proposed. Alternative 3 is for the Service to issue ETPs for the construction of Phase I infrastructure and the construction and operation of wind turbines only in the Sierra Madre Wind Development Area (WDA) (298 turbines total). The alternative includes avoidance and minimization measures, best management practices, and compensatory mitigation described in PCW's application as they apply to the Sierra Madre WDA.

Alternative 4: No Action. Under Alternative 4, the Service would deny PCW standard and programmatic ETPs for construction and operation of the Phase I CCSM

Project. In addition to being a potential outcome of the permit review process, analysis of the No Action alternative is required by CEQ regulation (40 CFR 1502.14) and provides a baseline against which to compare the environmental impacts of the Proposed Action and other reasonable alternatives. ETPs are not required in order for PCW to construct and operate the project; therefore, if we deny the ETPs, PCW may choose to construct and operate the Phase I CCSM Project without ETPs and without adhering to an ECP. Alternative 4 analyzes both a “No Build” scenario and a “Build Without ETPs” scenario.

National Environmental Policy Act Compliance

Our decision whether to issue standard and programmatic ETPs to PCW triggers compliance with NEPA, which requires the Service to analyze the direct, indirect, and cumulative impacts of the CCSM Phase I project before we make our decision, and to make our analysis available to the public. We have prepared the draft EIS to inform the public of our proposed permit action, alternatives to that action, the environmental impacts of the alternatives, and measures to minimize adverse environmental effects.

EPA’s Role in the EIS Process

The EPA is charged under section 309 of the Clean Air Act to review all Federal agencies’ EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The EIS database provides information about EISs prepared by Federal agencies, as well as

EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

For more information, see <http://www.epa.gov/compliance/nepa/eisdata.html>.

You may search for EPA comments on EISs, along with EISs themselves, at

<https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Comment Procedures

In accordance with CEQ's regulations for implementing NEPA and DOI's NEPA regulations, the Service requests public comments on the draft EIS. Timely comments will be considered by the Service in preparing the final EIS.

Written comments, including email comments, should be sent to the Service at one of the addresses given in the **ADDRESSES** section of this notice. Comments should be specific and pertain only to issues relating to the proposals. The Service will include all comments in the administrative record.

If you would like to be placed on the mailing list to receive future information, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Availability of Submissions

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the office where the comments are being submitted.

Authorities

This notice is published in accordance with the National Environmental Policy Act of 1969; the CEQ's regulations for implementing NEPA, 40 CFR parts 1500 through 1508; and the Department of the Interior's NEPA regulations, 43 CFR part 45.

Matt Hogan

Regional Director

Mountain-Prairie Region

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